

IN THE SENATE

SENATE BILL NO. 1034

BY SCHROEDER

AN ACT

RELATING TO MANDATORY MINIMUM SENTENCING; AMENDING SECTION 18-1508, IDAHO CODE, TO PROVIDE AN EXCEPTION RELATING TO THE TERM OF IMPRISONMENT FOR CERTAIN SEX OFFENDERS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 19-2520G, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE SENTENCING OF CERTAIN SEX OFFENDERS AND TO PROVIDE MANDATORY MINIMUM SENTENCING FOR CERTAIN OFFENDERS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-1508, Idaho Code, be, and the same is hereby amended to read as follows:

18-1508. LEWD CONDUCT WITH MINOR CHILD UNDER SIXTEEN. Any person who shall commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or opposite sex, or who shall involve such minor child in any act of bestiality or ~~sado-masochism~~ sadomasochism as defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, such minor child, or third party, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life, unless the provisions of section 19-2520G, Idaho Code, apply, then for a term of confinement as provided in section 19-2520G, Idaho Code.

SECTION 2. That Section 19-2520G, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520G. MANDATORY MINIMUM SENTENCING. (1) Pursuant to section 13, article V of the Idaho constitution, the legislature intends to provide mandatory minimum sentences for certain first time offenders who have been found guilty of or pleaded guilty to child sexual abuse and for repeat offenders who have previously been found guilty of or pleaded guilty to child sexual abuse. The legislature hereby finds and declares that the sexual exploitation of children constitutes a wrongful invasion of a child and results in social, developmental and emotional injury to the child. It is the policy of the legislature to protect children from the physical and psychological damage caused by their being used in sexual conduct. In order to protect children from becoming victims of this type of conduct by perpetrators, it is necessary to provide the mandatory minimum sentencing format contained in subsections (2), (3), (4) and (5) of this section. By enacting mandatory minimum sentences,

the legislature does not seek to limit the court's power to impose in any case a longer sentence as provided by law.

(2) Any person who is eighteen (18) years of age or older who is found guilty of or pleads guilty to violating the provisions of section 18-1508, Idaho Code, on or after July 1, 2009, in which the victim was less than twelve (12) years of age, and the person does not otherwise fall under the provisions of subsection (3) of this section, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than thirty (30) years and not exceeding life imprisonment, followed by probation or parole for the remainder of the person's natural life.

(3) Any person who is eighteen (18) years of age or older who is found guilty of or pleads guilty to violating the provisions of section 18-1508, Idaho Code, in which the victim was less than twelve (12) years of age, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than life, if it is found by the trier of fact that previous to the commission of such crime the defendant has been found guilty of or has pleaded guilty to a violation of a crime or an offense committed in this state or another state which, if committed in this state, would violate the provisions of section 18-1508, Idaho Code, and the defendant was eighteen (18) years of age or older and the victim was less than twelve (12) years of age at the time of committing such crime or offense.

(4) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, and does not otherwise fall under the provisions of subsection (2) or (3) of this section, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than fifteen (15) years, if it is found by the trier of fact that previous to the commission of such crime the defendant has been found guilty of or has pleaded guilty to a violation of any crime or an offense committed in this state or another state which, if committed in this state, would require the person to register as a sexual offender as set forth in section 18-8304, Idaho Code.

~~(35)~~ (5) Any person who is found guilty of or pleads guilty to any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, or any attempt or conspiracy to commit such a crime, shall be sentenced to a mandatory minimum term of confinement to the custody of the state board of correction for a period of not less than life, if it is found by the trier of fact that previous to the commission of such crime the defendant has been and is designated a violent sexual predator as set forth in section 18-8314, Idaho Code, or the equivalent under the laws of another state at the time of committing such offense.

~~(46)~~ (6) The mandatory minimum term provided in this section shall be imposed where the aggravating factor is separately charged in the information or indictment and admitted by the accused or found to be true by the trier of fact at a trial of the substantive crime. A court shall not have the power to suspend, withhold, retain jurisdiction, or commute a mandatory minimum sentence imposed pursuant to this section. Any sentence imposed under the provisions of this section shall run consecutive to any other sentence imposed by the court.